IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 97 OF 2006.

Mrs. Padmaja alias
Ranjana Bhakta, aged 35 years,
residing at House No. 201/A,
Peddem, Mapusa, Bardez,
Goa. .... Petitioner.

Versus

Mr. Ramesh Damodar Bhakta,
aged 35 years, businessman,
residing at Madhu Kunj 101,
Alto de Porvorim, Bardez, Goa. .... Respondent.

Mr. J.E. Coelho Pereira, Senior Advocate with Mr. V. Braganza, Advocate for the Petitioner.

Mr. M.S. Usgaoncar, Senior Advocate with Mr. Iftikhar Aga, Advocate for the Respondent.

CORAM: DR. S. RADHAKRISHNAN, J.

DATE: 6th OCOTOBER, 2006.

ORAL JUDGMENT:

1. Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondent. Rule. Rule made returnable forthwith by consent. Taken up for final hearing.

2. By this petition the petitioner-wife has challenged the Order dated 10th October, 2005 passed by the learned Civil Judge Senior Division, 'B' Court, Mapusa, whereby the learned Judge had dismissed the

application filed by the petitioner. By the said application the petitioner had sought a relief that the Court should interview the children especially with regard to compliance of Order dated 7th December, 2004. The Petitioner also seeks quashing of Order dated 7th December, 2004.

3. By the said Order dated 7th December, 2004 the learned Civil Judge S.D. At Mapusa had granted the application of the defendant-husband seeking visiting rights of his children. By the said Order, the learned Civil Judge S.D. On 7th December, 2004 had directed that the mother should take both the children to the temple of Dattatraya, Dattawadi, Mapusa between 4.30 p.m. to 5.30 p.m., on the last Sunday of every month so as to enable the respondent-husband herein to meet his children.

4. It is the case of the petitioner that the petitioner-mother has been persuading and coaxing both the children to meet their father. However, it appears that both the children who are quite grown up were very reluctant to meet their father.

5. When this petition came up before me, on 21st September, 2006, after hearing the parties for some time, I had directed the petitioner-mother to bring both the children so as to enable me to interview

them and find out their inclination as both the children were quite grown up. The daughter Rashmi is presently studying S.Y..B.Com. And the son Ritesh is studying in Std.X. On 28th September, 2006 at 4.30 p.m. In pursuance to the said Order, both the children were brought and I had personally interviewed both of them. Both the children appear to be quite mature and they understand all the consequences. They very clearly expressed that right from 1999 whenever both the children used to pass in front of the liquor shop wherein the respondent-husband is carrying on his business, and try to meet him or smile at him, the respondent-husband would look away and would not even recognize them and would treat them as if they were strangers. Both the children were also very categorical in stating that right from 1999 till date, the respondent has not even bothered to telephone and wish on their birthdays or to inquire as to when their examinations were commencing or that how they are faring, and that the respondent-husband had not even given a single present to either of them right from 1999 till date. Over and above they also remarked that the respondent-husband was insisting on the visiting rights on the ground that the respondent-husband has now been ordered to pay a sum of Rs.15,000/- as maintenance to the petitioner and the children. It appears that the respondent-husband had insisted on the visiting rights on the ground that as he was paying a sum of Rs.15,000/- he should have the right to meet his children. Both the children were very

categorical that they do not even wish to see the respondent-husband as he really has no concern about them. Both the children say that forcing them to meet the father affects them emotionally, especially when the daughter is doing her S.Y.B.Com. and the son is in the crucial Std.X.

6. Under the aforesaid facts and circumstances, it would not be appropriate to compel the children to meet their father. I am not disturbing the right of the husband-respondent as a father, having the right to visit his children, however the children are not keen to meet him. Hence they cannot be compelled to meet him. The mother cannot be forced to take the children to meet the father. Inspite of attempts, the children are not willing to go and meet the father. The Respondent-father ought to make serious and sincere efforts to win back the love of his children, so as to enable him to meet them.

7. Under the circumstances, as far as prayer clause (a) is concerned, the same is redundant as I have already interviewed the children and they have clearly expressed the view of not wishing to meet their father.

8. Under the aforesaid facts and circumstances, the impugned Order dated 7th December, 2004 stands quashed and set aside.

9. Rule is accordingly made absolute.

DR. S. RADHAKRISHNAN, J.

sl.